



DEPARTMENT OF VETERANS AFFAIRS
Washington DC 20420

October 31, 2019

In Reply Refer To: 001B
FOIA Request: 19-11327-F

Austin R. Evers
Executive Director
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005
Foia@americanoversight.org

This is the Initial Agency Decision (IAD) from the Office of the Secretary, U.S. Dept. Veterans Affairs (OSVA) to your Freedom of Information Act (FOIA) request received and dated September 4, 2019, and assigned FOIA tracking number **19-11327-F**. You requested: "All email communications (including email messages, email attachments, calendar invitations, and calendar invitation attachments) between (1) the VA officials and employees listed below and (2) anyone in the White House Office (including anyone with an email address ending in "who.eop.gov") regarding Spravato (esketamine) nasal spray:

- a. Robert Wilkie, Secretary of Veterans Affairs, and anyone serving as his assistant or scheduler;
- b. Peter O'Rourke, Former Acting Secretary, Chief of Staff, and Senior Advisor;
- c. Pamela J. Powers, Chief of Staff;
- d. Casin Spero, Executive Director of the COVER Commission and Senior Advisor;
- e. James E. Hutton, former Deputy Assistant Secretary for Public Affairs and current Assistant Secretary for Public and Intergovernmental Affairs;
- f. John Ulyot, former Assistant Secretary for Public and Intergovernmental Affairs;
- g. Richard A. Stone, Executive in Charge, Veterans Health Administration;
- h. Steven L. Lieberman, Acting Principal Deputy Under Secretary for Health;
- i. Lawrence Connell, Chief of Staff, Veterans Health Administration;
- j. Jon M. Jenson, Acting Deputy Chief of Staff;
- k. Valerie Mattison Brown, Assistant Deputy Under Secretary for Health, Policy and Planning;
- l. Maria Llorente, Acting Assistant Deputy Under Secretary for Health for Patient Care Services (PCS);
- m. Michael A. Valentino, Chief Consultant – Pharmacy Benefit Management Services (PBM), and anyone serving as his assistant or scheduler;
- n. Matthew A. Fuller, National Clinical Pharmacy Program Manager, PBM;
- o. David Carroll, Executive Director, Office of Mental Health and Suicide Prevention;
- p. Anyone serving in the capacity of White House Liaison or Advisor.

American Oversight believes that records containing the terms below are likely to be responsive records, and American Oversight requests that VA, at a minimum, employ these search terms to identify responsive records.

- Spravato
- esketamine
- "nasal spray"
- "treatment-resistant" AND depress*
- stimulant AND suicide
- stimulant AND depress*
- "J&J" AND drug
- "J&J" AND suicide
- "J&J" AND depress*
- "J&J" AND buy
- "Johnson & Johnson" AND drug
- "Johnson & Johnson" AND suicide

- “Johnson & Johnson” AND depress*
- “Johnson & Johnson” AND buy
- Janssen AND drug
- Janssen AND suicide
- Janssen AND depress*
- Janssen AND buy

Please note that American Oversight is using the asterisk (*) to designate the standard use of “wildcards” in the search for responsive records. For example, a search for “depress*” would return both depression and depressant. If VA is unable to search for wildcards, please advise so that we may specifically include the variations that we would like searched.

Please provide all responsive records from September 4, 2018, to the date of the search.”

As a reminder, the VHA (**19-11256-F**) and OALC (**19-11257-F**) FOIA offices will respond to you separately for VHA or OALC records located within their respective FOIA offices. OSVA is responding for responsive records located within OSVA.

IAD and Reasonable Searches Dated 9/12/19 & 10/31/19

On September 12, 2019, our search cut-off date, the OSVA FOIA Officer requested that the VA OIT office provide all responsive records, if any, with date timeframe of September 4, 2018, to September 12, 2019 within the email boxes and calendar entries of: 1) Robert Wilkie, 2) Peter O’Rourke, 3) Pam Powers, 4) Casin Spero, and 5) Executive Assistant for both Robert Wilkie and Peter O’Rourke. On September 20, 2019, the VA OIT office provided preliminary results.

On October 31, 2019, the OSVA FOIA Officer conducted a second, follow-up search with date timeframe of September 4, 2018, to September 12, 2019 within the email boxes and calendar entries of: 1) Robert Wilkie, 2) Peter O’Rourke, 3) Pam Powers, 4) Casin Spero, and 5) Executive Assistant for both Robert Wilkie and Peter O’Rourke.

The OSVA FOIA Officer looked for any emails or calendar entries to, from, or copying email addresses ending in @who.eop.gov. The OSVA FOIA Officer also used the following stemmed or wildcarded search terms: 1) Spravato, 2) esketamine, 3) “nasal spray,” 4) (“treatment-resistant” AND depress), 5) (stimulant AND suicide), 6) (stimulant AND depress), 7) (“J&J” AND drug), 8) (“J&J” AND suicide), 9) (“J&J” AND depress), 10) (“J&J” AND buy), 11) (“Johnson & Johnson” AND drug), 12) (“Johnson & Johnson” AND suicide), 13) (“Johnson & Johnson” AND depress), 14) (“Johnson & Johnson” AND buy), 15) (Janssen AND drug), 16) (Janssen AND suicide), 17) (Janssen AND depress), and 18) (Janssen AND buy).

Despite these two (2) separate, reasonable searches, the OSVA FOIA Officer found no responsive records. Thus, OSVA issues you a “no records” response.

FOIA Mediation

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

VA Central Office FOIA Public Liaison:

Name: John Buck

Email Address: vacofoiaservice@va.gov

Office of Government Information Services (OGIS)

Email Address: ogis@nara.gov

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

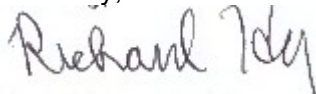
FOIA Appeal

This concludes OSVA's Initial Agency Decision to request **19-11327-F**. Please be advised that should you desire to do so, you may appeal the determination made in this response to:

Office of General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Sincerely,



Richard Ha, JD, CIPP/G
OSVA FOIA Officer